

Frequently Asked Questions

About The Do Not Contact Rules

These Frequently Asked Questions should be read in conjunction with NRT's Do Not Contact Policy and will be updated from time to time.

I - The Do Not Call Rules

The Do Not Call rules became effective as of October 1, 2003. The rules govern telephone solicitations and create a National Do Not Call Registry. The rules preempt all less restrictive state do not call rules.

Can I call a FSBO or an expired listing?

If you have a legitimate interested buyer you would not be making a sales call, and therefore you may call a FSBO or expired listing solely on behalf of such legitimate interested buyer. If you do not have a legitimate buyer or if you are calling to market your services (i.e. obtain the listing) you may NOT call if the FSBO's or expired listing's phone number is on a DNC list, even if the FSBO/expired listing advertised in a newspaper or had a lawn sign. In other words, sales calls to FSBOs and expired listings are subject to the normal rules of NRT's Do Not Call Policy.

Note however, that you may call the company's expired listings for 18 months from the date of expiration because of the company's established business relationship.

Can I call neighbors of a new listing to invite them to an open house?

Since the primary purpose of the call would be to either sell such neighbors the house or to convince them to list with you when selling their home (i.e. market your services), it is a sales call and these numbers need to be checked on the NRT Do Not Call website in accordance with the normal rules of NRT's Do Not Call Policy.

What if I am doing a survey?

Any survey must be a legitimate survey, i.e. for the sole purpose of collecting data for analysis of a particular group or area. A legitimate survey involves a systematic plan to gather and document information for a defined purpose. A legitimate survey does not involve any marketing and therefore would not be a sales call that is subject to NRT's Do Not Call Policy.

What is a personal relationship?

A personal relationship is a relationship that is outside the scope of your business, such as a friend or family member. The definition of a personal relationship does NOT include referrals.

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What language is needed on an express written consent, e.g. Open House Sign In Sheet, to obtain consent to call buyer prospects in the future?

"By providing your name, signature, and phone number you are consenting to receive phone calls from [brokerage] regarding our services."

The above language must be conspicuously positioned on the document. It is very important that you obtain a person's signature. Merely obtaining a name and phone number constitutes an inquiry and affords you only 3 months to call. However, obtaining a signature, name and phone number provides you with written consent that doesn't expire until rescinded.

What if I call someone on his or her business phone?

Business to business phone calls are not subject to NRT's Do Not Call Policy - only sales calls made to residential and cellular phone numbers are subject to NRT's Do Not Call Policy. Be careful when making a business-to-business call that you distinguish between a business phone number (not subject to the rules) and an individual's cellular phone number (which is subject to the rules).

Can I call an agent for recruiting purposes?

A recruiting call solely for the purpose of encouraging an agent to affiliate with the company is not a sales call, and therefore is not subject to NRT's Do Not Call Policy.

Do I need to retain a copy of the phone numbers I search on the NRT Do Not Call website?

No. A record of your search will be automatically retained by the website for a period of 2 years from the date of your search.

Can I call a consumer referred from a relocation company or another real estate broker?

The rules regarding the permissibility of calling a referral are not clear, and the National Association of Realtors has included this issue in its petition to the Federal Communications Commission ("FCC") for rules clarification. If there is a legitimate referral by a relocation company or a real estate broker that is provided to you as a result of a consumer's request to be contacted, and the request follows such consumer's business relationship with the referring relocation company or real estate broker, the consumer reasonably expects to receive this referred sales call. Therefore, promptly upon receipt you may call a legitimate referral from a relocation company or real estate broker. In all cases, be sure to identify to the consumer the relocation company or real estate broker that made the referral.

Note that a personal referral (e.g. a friend tells you that a neighbor needs a real estate agent) is subject to NRT's Do Not Call Policy -- phone numbers must be checked prior to calling such consumers.

Can I make a phone call on behalf of a charity or charity event?

If you are calling solely on behalf of a legitimate charitable organization and the call does not involve any marketing of your services, you may make such calls.

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Note that you should refrain from disclosing the name of the company that you are affiliated with and should only refer to the name of the charity or charity event you are making the charitable phone call for.

Can I outsource sales calling to a telemarketing firm?

The answer depends on the telemarketing firm's ability to comply with the Do Not Call rules and to enter into a written agreement that includes sufficient protection for NRT and its affiliates against violations of the Do Not Call rules. If you would like to outsource your telemarketing activities please contact Stacy Tankel, Vice President, Assistant General Counsel at stacy.tankel@nrtllc.com.

How will I know if I am complying with the caller ID requirement?

NRT has confirmed that all phones in all offices either currently transmit caller ID information, or will transmit caller ID information, in compliance with this requirement. If you are unsure if your residential or cellular phone transmits caller ID information you should contact your local carrier.

II - The Do Not E-mail Rules

The CAN-SPAM Act of 2003 became effective January 1, 2004. The law governs the sending of commercial e-mail messages and requires any commercial e-mail (i) to be labeled an advertisement, (ii) to have an opt out mechanism and (iii) provide a physical address of the sender. This law pre-empts all state anti-spam laws. At this time there is a national Wireless E-mail Domain Name List, however there is not a national Do Not Email Registry allowing consumers to register an email address.

What is a commercial e-mail message?

Any e-mail the primary purpose of which is to advertise or promote your services or products.

Can I e-mail a buyer or seller that I am working with?

Yes. An e-mail whose primary purpose is to facilitate, complete, or confirm a commercial transaction is not a commercial e-mail message. However, the message in the subject line cannot be false or misleading and the "from" line must accurately identify the sender.

What does it mean to "opt out"?

Opt out means that a recipient of a commercial e-mail message must be able to request not to receive any further e-mail messages from the sender through an Internet mechanism, such as replying to the sender via e-mail.

When do I need to check e-mail addresses against the Do Not E-mail Lists?

You must check an email address for inclusion on the national Wireless E-mail Domain Name List and the Company Specific Do Not E-mail List (collectively, the "Do Not Email Lists") prior to sending any commercial e-mail message. Remember, a transactional or relationship message is not considered

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commercial e-mail so you do not need to check the Do Not E-mail Lists prior to sending such messages.

Is an internal e-mail sent within my company indicating I have a buyer looking for a specific property or describing a new listing considered a commercial e-mail?

No. Internal e-mails sent solely to agents and/or employees of the company are directly related to your affiliation with the company and therefore are not commercial e-mail.

Note however that such e-mail should be sent in accordance with the applicable company e-mail policy, which policy may restrict such e-mails.

Can I e-mail an agent for recruiting purposes?

A recruiting e-mail solely for the purpose of encouraging an agent to affiliate with the company is not a commercial e-mail.

Can an e-mail address on the Company Specific Do Not E-mail list be removed?

Yes. The recipient must provide you with written consent (which can be via e-mail) indicating consent to receive commercial e-mail messages and the e-mail address to which such messages can be sent. You can call 1 877 NRT-HELP (678-4356) to request to remove an e-mail address from the Company Specific Do Not E-mail list.

III - Do Not Fax Rules

Pursuant to the Junk Fax Prevention Act, beginning July 9, 2005, a person can only send an “unsolicited advertisement” to a fax machine if (i) you have an established business relationship with the recipient, (ii) you obtained the fax number voluntarily from the recipient, i.e. through your established business relationship or through a public source such as a directory or Internet website, (iii) you include an opt out notice on the first page of the fax AND (iv) the recipient has not made a request to not receive future unsolicited fax advertisements. These rules do not pre-empt state rules regarding faxing of unsolicited advertisements.

What is an unsolicited advertisement?

An unsolicited advertisement is defined as any material advertising the commercial availability or quality of property, goods or services which is transmitted to any person without that person’s prior express invitation or permission.

Is a purchase offer faxed to another broker or a client an unsolicited advertisement?

No. An offer to purchase is not advertising the commercial availability or quality of a property so you do not need prior express invitation or permission to fax an offer to purchase.

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Is listing information/sheets faxed to a broker or a client an unsolicited advertisement?

Yes. Listing information or listing sheets fall within the definition of an advertisement so you need to either obtain prior express invitation or permission to fax the listing sheets or meet above referenced criteria for sending an unsolicited advertisement to a fax machine.

What “opt out” language should be used on a fax cover sheet?

“The recipient may request that the sender not send any future facsimile advertisements to a designated facsimile machine or machines. To opt out of further facsimile advertisements from this sender, please [call or fax] [phone or fax number, toll-free if available] [email address, if desired] at any time on any day of the week. It is prohibited to send this facsimile, in whole or in part, to any third party.”

Although the above language is required on the first page of a fax when sending an unsolicited advertisement, NRT’s policy is to include the language on all fax cover sheets to minimize risk.

Can a fax number on the Company Specific Do Not Fax list be removed?

Yes. The recipient must provide you with express invitation or permission (which can be via e-mail) indicating consent to receive unsolicited advertisements and the fax number to which such messages can be sent. You can call 1 877 NRT-HELP (678-4356) to request to remove a fax number from the Company Specific Do Not Fax list.

Can I hire a vendor to fax unsolicited advertisements?

The answer depends on the vendor’s ability to comply with all applicable Do Not Fax rules and to enter into a written agreement that includes sufficient protection for NRT and its affiliates against violations of all applicable Do Not Fax rules. If you would like to hire such a vendor please contact your local in-house attorney.

IV – Do Not Text Rules

Can I text a buyer or seller I am working with?

Yes, provided the buyer or seller provided their cell number to you which would be consent.

Can I send unsolicited texts using an autodialer?

You must have prior written consent to send someone a text using an autodialer. An autodialer is defined to mean “equipment that can store or produce telephone numbers, using a random or sequential number generator and dial such numbers.” The numbers are being dialed with little to no human intervention.

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What opt-out language should be on the text?

Example language: “Text single word to cancel or opt-out: [e.g. STOP, UNSUBSCRIBE, END].”

Can I hire a vendor to send unsolicited texts for me?

The answer depends on the vendor’s ability to comply with all applicable Do Not Text rules and to enter into a written agreement that includes sufficient protection for NRT and its affiliates against violations of all applicable Do Not Text rules. If you would like to hire such a vendor please contact your local in-house attorney.

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